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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

In re INSURANCE BROKERAGE)	Master Docket No. 04-5184(CCC)
ANTITRUST LITIGATION)	
_____	)	PLAINTIFFS' APPLICATION FOR
	)	TEMPORARY SEAL OF THE
This Document Relates To:	)	NOVEMBER 4, 2013 LETTER FROM
	)	RACHEL L. JENSEN AND THE
<i>Lincoln Adventures, LLC, et al. v. Those</i>	)	ATTACHED [PROPOSED] SECOND
<i>Certain Underwriters at Lloyd's London</i>	)	AMENDED COMPLAINT
<i>Members of Syndicates, et al.,</i>	)	PURSUANT TO LOCAL RULE
No. 2:08-cv-00235-CCC-JAD	)	5.3(c)(6) AND THE CORRECTED
_____	)	CONFIDENTIALITY ORDER ON
	)	INFORMAL APPLICATION (DKT.
	)	NO. 216)

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that the undersigned counsel for Plaintiffs Lincoln Adventures, LLC (“Lincoln Adventures”) and Michigan Multi-King, Inc. (“MMK”) (collectively, “Plaintiffs”) will request before the Honorable Joseph A. Dickson, United States Magistrate Judge, for entry of an order placing the attachment to the letter of Rachel L. Jensen filed on the Docket on November 4, 2013, under temporary seal pursuant to Local Civil Rule 5.3(c)(6) and in accordance with the Corrected Discovery Confidentiality Order on Informal Application (“Confidentiality Order”), ¶7, filed September 23, 2005 (Dkt. No. 216).

The attachment to the letter is Plaintiffs’ [Proposed] Second Amended Class Action Complaint (the “SAC”). The SAC contains some allegations based on evidence gleaned from Defendants’ document production and deposition testimony that were designated by Defendants as Confidential and/or Attorneys’ Eyes Only. According to the Confidentiality Order, if a document is filed by a non-producing party in connection with a non-discovery application, such as Plaintiffs’ Motion to Amend, “then the submitting party shall file it along with an application for temporary seal pursuant to Local Rule 5.3(c)(6) and notify the Producing Party of such.” Confidentiality Order, ¶7.

The Confidentiality Order prohibits Plaintiffs’ not only from quoting such material, but also bars Plaintiffs from utilizing “summariz[ing]” or “paraphras[ing]”

of any Confidential or Attorneys' Eyes Only material. Confidentiality Order, ¶5. Thus, even general references to the facts contained in such material designed to provide Defendants and the Court sufficient notice of Plaintiffs' claims are prohibited from inclusion in any publicly-available document. Moreover, absent the inclusion of such material, the Court's ability to determine the merits of Plaintiffs' Motion to Amend would be impaired.

The Confidentiality Order provides that a "temporary seal will expire twenty-one [21] days after filing, unless the Producing Party files a motion to seal pursuant to Local Rule 5.3(c)." *Id.*, ¶7. Should Defendants so choose, they may file a motion to seal within 21 days if they believe in good faith that sealing the portions of the SAC they believe to be Confidential or Attorneys' Eyes Only is the least restrictive means of achieving the goals of Local Rule 5.3. *See id.*

The temporary seal will only apply to the proposed SAC and not to the Motion to Amend or the other supporting papers. The SAC is attached to the Jensen letter in order to allow the Motion to Amend to be filed publicly. Only if the Motion to Amend is granted will Plaintiffs then "file the original forthwith" per Local Civil Rule 7.1(f). Since the return date on the Motion to Amend is not until December 2, 2013, the Motion to Amend will consequently not be decided until after the 21-day period afforded Defendants to seek to have any of the material they deemed Confidential filed under seal. Thus, the temporary seal will have no impact on the "right of public

access to filed materials” or the “presumption in favor of public access.” Explanatory Note, Local Civil Rule 5.3, Subparagraph (a)(4).

The Producing Party Defendants have been notified via the email service list.

PLEASE TAKE FURTHER NOTICE that Plaintiffs are also submitting a proposed order, as required by the Rules of this Court.

DATED: November 4, 2013

Respectfully submitted,

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s/ Rachel L. Jensen

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CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2013, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be e-mailed the foregoing document or paper via the email distribution service list to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 4, 2013.

s/ Rachel L. Jensen

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